THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.11607 OF 2006
AND
WRIT PETITION NO.11614 OF 2006

DATED: 13th SEPTEMBER, 2006.

Between :

M/s. Blue Bird Security Services,
2/62, Upstairs, Near Chaitanya Bakery,
Adoni, Kurnool District., rep. by its Branch
Manager K. Ravi Kumar. …. Petitioner

And

A.P. Social Welfare Residential Educational Institution
Society, DSS Bhavan, Opp: Chacha Nehru Park,
Masab Tank, Hyderabad, rep. by its
Secretary. .. Respondent

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WRIT PETITION NO.11607 OF 2006
AND
WRIT PETITION NO.11614 OF 2006

COMMON ORDER :

These two writ petitions which are filed with a common prayer declaring the proceedings of the A.P. Social Welfare Residential Educational Institution Society dated 8-6-2006 as arbitrary and illegal are heard together and decided by this common order.

The facts, in brief, are as under :

The respondent issued a tender notification dated 14-10-2005 inviting tenders from the placement firms and the agencies for providing Office Accountants, Office Assistants, Record Assistants, Lab Assistants and Security Watch and Ward services in A.P. Social Welfare Residential Project Schools. It is stated that the petitioners in both the writ petitions submitted their tenders in response to the said tender notice. On 27-10-2005 the tenders were opened. It is claimed that the petitioner in W.P.No.11607 of 2006 was found to be the lowest tenderer for the Lab Assistants and the petitioner in W.P.No.11614 of 2006 was found to be the lowest tenderer for the Record Assistants, Security Watch and Ward and they were asked to enter into agreements on Non-Judicial Stamp papers for providing manpower under the above categories along with demand drafts towards security deposit. While the petitioners were getting ready to comply with the same, the respondent by letter dated 10-4-2006 informed the petitioners to offer lowest quotation for providing manpower as per the

tender notification in the format mentioned therein on the ground that that the respondent society is exempted from the payment of contributions towards EPF and ESI under the relevant statutes. Accordingly, the petitioners submitted the required particulars. However, vide impugned letter dated 8-6-2006 the petitioners were informed by the respondent that the tenders called for were cancelled. Accordingly the security deposits and the earnest money deposits furnished by the petitioners were returned. Aggrieved by the same, these two writ petitions are filed.

I have heard the learned Counsel for both the parties and perused the material on record.

The learned Counsel for the petitioners contended that having accepted the tenders offered by the petitioners and having directed them to enter into agreement, it is not open to the respondents to cancel the tender notification itself without assigning any reasons therefor.

On the other hand, the learned Standing Counsel appearing for the respondent submitted that the tenders were cancelled for valid reasons in the interest of the respondent society and the petitioners did not acquire any right to compel the respondents to enter into agreement with them.

In the counter-affidavit filed on behalf of the respondent society, the fact that the writ petitioners were the lowest tenderers was not disputed. However, it is explained that after the tenders were received, it was noticed that the respondent society was exempted from payment of Employees Provident Fund under Section 16 (i) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 and since the quotations made by the petitioners and other tenderers did not contain the amount that would be paid to the hired employees they were asked to furnish the said particulars. It was also found by the respondent society that since the tender notices were published without taking into consideration the exemption to which the

respondent is entitled to and initially the tenders were processed on the same basis leading to disqualification of some of the tenderers, the respondent society thought it fit to cancel the tenders and notify fresh tenders.

The law is well settled that the lowest/highest bidder will not acquire any right to the award of contract merely on the ground that his bid was lowest/highest. Admittedly, in the case on hand, no agreements were executed and thus there was no concluded contract. Though the petitioners were informed that they were the lowest bidders, on account of certain discrepancies which were noticed subsequently the respondent thought it fit to cancel the tender itself so as to afford a fair opportunity to all the intending participants. It is also relevant to note that under clause (2) (r) of the tender schedule it was made clear that the respondent society is not bound to accept the lowest bidders and that the Secretary reserves the right to accept or reject any tender without assigning any reasons thereof and reserves right to enter into parallel contract at any time with any right at the discretion of the Secretary.

The learned Standing Counsel for the respondent society pointed out that though the society is exempted from payment of EPF contributions under the provisions of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 by inadvertence a clause was inserted in the tender notice as under :

> *"The successful bidder will be solely responsible for payment of all the statutory payments/dues like Employees Provident Fund, Insurance, Gratuity etc."*

Consequently, the tenders were quoted by the participants including PF contributions. From the explanation offered in the counter-affidavit, it is clear that the respondent society decided to cancel the tenders for valid reasons. In the absence of any allegation of mala fides and particularly since the impugned action of cancellation of tenders cannot be held to be in violation of any statutory provisions, I do not find

any substance in any of the contentions raised by the petitioners.

Accordingly, both the Writ Petitions, which are devoid of any merit, are hereby dismissed. No costs.

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G. ROHINI, J.

Dt. 13–9-2006
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